



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

January 29, 2008

Town of Newport  
Attn: Mr. Daniel O'Neill, Town Manager  
15 Sunapee Street  
Newport, NH 03773

Subject: Newport Wastewater Treatment Facility  
NPDES/State Surface Water Discharge Permit No. NH0100200  
Administrative Order by Consent No. 08-005 WD

Dear Mr. O'Neill:

Subsequent to our conversation on January 29, 2008, please find enclosed for your review and signature the Administrative Order by Consent No. 08-005 WD ("the AOC"). After you have signed and dated the AOC, mail the entire AOC (with Attachment A) to DES as follows: NHDES Water Division, Wastewater Engineering Bureau, Attn: Margaret Bastien, P.O. Box 95, Concord, NH 03302-0095. Upon receipt, I will process the AOC for signature by the Division Director and Commissioner, and send a copy of the signed AOC to you on behalf of the Town of Newport. The AOC is effective upon signature by all parties, with the effective date being the date of signature by DES.

Please note that there are eleven required quarterly status reports. The first report is due on April 15, 2008. Subsequent reports are due by the 15<sup>th</sup> of the month following the end of the quarter, i.e., for the second quarter of 2008 the report is due by July 15, 2008. The last quarterly status report is due October 15, 2010.

If you have any questions on the AOC please contact me at 271-2755.

Sincerely,

Margaret Bastien, P.E.  
Compliance Supervisor

CERIFIED MAIL / RRR # 7006 0810 0003 2417 9507

cc: Stergios Spanos, P.E., DES Permits and Compliance Section  
Paul Heirtzler, P.E., Esq., Administrator, Wastewater Engineering Bureau  
Gretchen Hamel, Administrator, DES Legal Unit  
Joy Hilton, USERA  
Board of Selectmen, Town of Newport





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**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

Town of Newport  
15 Sunapee Street  
Newport, NH 03773

Re: Newport Wastewater Treatment Facility

**ADMINISTRATIVE ORDER  
BY CONSENT  
No. 08-005 WD**

**A. INTRODUCTION**

This Administrative Order by Consent is issued by the Department of Environmental Services, Water Division to, and with the consent of, the Town of Newport, pursuant to RSA 485-A:22. This Administrative Order by Consent is effective upon signature by both parties.

**B. PARTIES**

1. The Department of Environmental Services, Water Division ("DES"), is a duly-constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.
2. The Town of Newport ("Town") is a duly-constituted municipality of the State of New Hampshire having a mailing address of 15 Sunapee Street, Newport, NH, 03773.

**C. STATEMENTS OF FACTS AND LAW**

1. Pursuant to RSA 485-A:13 and related sections, DES regulates the discharge of pollutants to surface waters under a permit system. As part of this program, the Commissioner of DES has adopted Env-Ws 401 – 405 relating to permits and has adopted Env-Ws 1700 to establish water quality standards for the state's waters.
2. The Town owns and operates a wastewater treatment facility located at 20 Putnam Road, Newport, New Hampshire ("Newport WWTF")
3. Operation of the Newport WWTF is permitted under the terms of federal National Pollutant Discharge Elimination System ("NPDES") permit number NH0100200, issued by the United States Environmental Protection Agency ("USEPA") to the Town on April 18, 2007. This NPDES permit was adopted as a State discharge permit under RSA 485-A:13, I(a). The federal and state permits are collectively referred to hereinafter as the "NPDES Permit".
4. Pursuant to Laws of 1967, 311:1, the Sugar River and its tributaries are classified as Class B waters.



5. Pursuant to RSA 485-A:8, II, there shall be no disposal of sewage or waste in Class B waters except those that have received adequate treatment to prevent the lowering of the biological, physical, chemical or bacteriological characteristics below those stated in RSA 485-A:8, II. Disposal of waste shall not be harmful to aquatic life or to the maintenance of aquatic life in said receiving waters. Further, Class B waters shall be acceptable for swimming, fishing and other recreational purposes.
6. RSA 485-A:12, I, prohibits the discharge of any sewage or wastes to a surface water in such a manner as will lower the quality of the water below the minimum requirements of the adopted classification.
7. Env-Ws 1700 establishes water quality standards to supplement the standards set forth in RSA 485-A:8, I, II, III and V for the uses also specified therein.
8. The NPDES Permit authorizes the Town to discharge treated wastewater from the Newport WWTF to the Sugar River, subject to specified effluent limitations, monitoring requirements, and other conditions.
9. To maintain State Water Quality Standards, the NPDES Permit requires the Newport WWTF to meet more stringent discharge limits than the existing facility can meet.
10. One of the parameters with limitations specified in the NPDES Permit is total phosphorus ("phosphorus").
11. NPDES Permit condition Part I.A.1. requires phosphorus concentrations in the Newport WWTF effluent to not exceed 0.42 mg/L as an average monthly value from April 1 through October 31 and to not exceed 1.0 mg/L as an average monthly value from November 1 through March 31.

For the monitoring period July 2007 through October 2007, the samples collected and analyzed for phosphorus showed the results included in Attachment A.

#### **D. DETERMINATION OF VIOLATIONS**

1. The Town violated Part I.A.1. of the NPDES Permit by discharging wastewater from its WWTF, since July 2007, that exceeded applicable phosphorus limits.

#### **E. ORDER**

Based on the above findings, DES hereby orders the Town, and Town agrees, to undertake and complete the following actions in accordance with the time schedules specified:

1. By **February 29, 2008**, submit an Engineering Study with recommendations for upgrades to the Newport WWTP such that the effluent will be able to meet NPDES Permit limits and conditions.

2. By **May 31, 2010**, award a contract for the DES approved upgrades and sign a notice to proceed with the selected contractor.
3. **Submit** 11 quarterly reports on the status of the upgrade project and evaluation of the current compliance status (i.e., permit violations and measures being implemented to be in compliance with the NPDES permit limits and conditions and the interim limit). The first report is due on **April 15, 2008** and the final report is due on **October 15, 2010**.
4. By **November 30, 2010**, complete construction and attain full operation such that the effluent from the upgraded Peterborough WWTP is meeting NPDES permit limits and conditions.

#### F. INTERIM LIMITS

1. Subject to F.2. below, the Town shall meet, at a minimum, the following interim discharge limit for phosphorus from the date of this Administrative Order by Consent until **November 30, 2010** or until full compliance with the NPDES Permit is achieved, whichever occurs first:

<u>EFFLUENT PARAMETER</u>	<u>EFFLUENT LIMIT</u> mg/L			<u>MONITORING REQUIREMENTS</u>	
	<u>Average Monthly</u>	<u>Average Weekly</u>	<u>Maximum Daily</u>	<u>Frequency</u>	<u>Sample Type</u>
Total Phosphorus (April 1 through October 31)	4.5	---	---	1/Week	Grab
Total Phosphorus (November 1 through March 31)	Report	---	---	1/Week	Grab

2. DES expressly reserves the right to amend this Administrative Order by Consent to establish a numerical interim limit for November 1 through March 31.

#### G. REPORTING

1. The Town shall submit written reports to DES and EPA detailing the status and progress of actions as required under E.3, above. Notification shall include:
  - a. Brief description of work completed under each item
  - b. Brief description of noncompliance/compliance with the Order, interim limits and NPDES permit, including specific dates.
  - c. Brief description of actions taken or proposed by the permittee to ensure compliance with the dates and interim limits specified in Section E and F, respectively.
2. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order by Consent to DES as follows:

Margaret Bastien  
DES Water Division  
P.O. Box 95

Copy to: Joy Hilton  
USEPA Region 1, Water Technical Unit  
Water Technical Unit



Concord, NH 03302-0095  
Fax No.: (603) 271-4128  
e-mail: mbastien@des.state.nh.us

1 Congress Street, Suite 1100  
Boston, MA 02114-2023

Nothing in this agreement shall be construed to limit DES's ability to take enforcement against the Town for non-compliance, including without limitation, referral to the New Hampshire Department of Justice.

#### **H. CONSENT AND WAIVER OF APPEAL; MODIFICATIONS**

1. By execution of this Administrative Order by Consent, the Town agrees that this Order shall apply to and be binding upon the Town, its officers, directors, successors and assigns, and agrees that this Order may be entered and enforced by a court of competent jurisdiction.
2. By execution of this Administrative Order by Consent, the Town waives any right to appeal this Administrative Order by Consent provided by statute, rule, or common law, including without limitation the right to appeal to the Water Council, and waives any right to object to the entry and enforcement of this order by a court of competent jurisdiction.
3. The Town shall continuously and diligently pursue implementation of the actions required in Section E above. The Town shall immediately notify DES of any delays in meeting the deadlines specified in Section E. Changes to the terms of this Administrative Order by Consent shall be valid only if in writing signed by the parties. Approval of reasonable changes to the implementation schedule shall not be unreasonably withheld by DES. Failure to secure funding for the required actions or failure of a consultant to meet deadlines in and of itself, shall not be construed as beyond the control of the Town.

#### **Town of Newport**

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Daniel O'Neill, Town Manager  
Duly Authorized

\_\_\_\_\_  
Date

#### **NH Department of Environmental Services**

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Harry T. Stewart, P.E., Director  
Water Division

\_\_\_\_\_  
Date

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Thomas S. Burack, Commissioner

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Date

cc: DES Legal Unit  
Newport Board of Selectmen  
Margaret Bastien, DES  
Joy Hilton, USEPA

ec: Public Information Officer, DES PIP Office  
Richard Head, Associate Attorney General





ATTACHMENT A

Summary of Effluent Total Phosphorus Results

Date Sampled	Grab Sample Result Total Phosphorus	Average Monthly Result Total Phosphorus
July 3, 2007	3.1	3.3
July 11, 2007	3.4	
July 18, 2007	3.4	
July 25, 2007	3.1	
August 1, 2007	3.7	4.1
August 8, 2007	3.7	
August 15, 2007	3.5	
August 22, 2007	4.2	
August 29, 2007	5.2	
September 5, 2007	5.0	4.5
September 12, 2007	4.6	
September 19, 2007	5.0	
September 24, 2007	3.5	
October 4, 2007	4.3	3.7
October 10, 2007	4.0	
October 17, 2007	3.9	
October 24, 2007	3.2	
October 29, 2007	3.3	

